

November 8, 1979

To whom it may concern:

I, George Thomas Goodman and my wife, Mary, have owned the house located at 431 Academy Road, Catonsville, Md. from July 22, 1970 to Nov. 9, 1979. During our ownership we have had three tenants and have used the property as a two family dwelling under the laws of Baltimore County.

Sincerely,

George Thomas Goodman
George Thomas Goodman

October 2, 1979

I rented the second floor apartment at 431 Academy Road, Baltimore, Maryland 21228 from Mary and Tom Goodman up until Feb from February 1, 1978 until October 1, 1978.

Anne M. Pentner

LAW OFFICES
O'DOHERTY, GALLAGHER & NEAD

1011 FIDELITY BUILDING
BALTIMORE, MARYLAND 21201

TELEPHONE
AREA CODE 301
537-1188

November 8, 1979

Mr. and Mrs. G. Thomas Goodman
431 Academy Road
Baltimore, Maryland 21229

Dear Tom & Mary:

This letter is to confirm the fact that we owned and occupied the residence at 431 Academy Road, Baltimore, Maryland 21228 from October, 1974 through July, 1976 and that the second floor apartment was available for rent from October 1974 through October, 1975.

If you need additional information, please let me know.

Very truly yours,

H. Jerome Fenzel
H. Jerome Fenzel

HJF:alc

Charles H. Snyder
5 Offutt Court
Granite, Maryland 21163

11-5-79

Dear Tom:

This letter is for the buyers of your home located at 431 Academy Rd., in Catonsville Md. My name is Charles H. Snyder Jr and I have owned the home located at 429 Academy Rd since July 1965. Prior to this purchase I was a tenant at 431 Academy Rd from April 1961 to July 1965. Both of these properties have been used as two family dwellings under the laws of Baltimore County. I have moved to the above letter head address as of July 1979.

Sincerely yours,

Charles H. Snyder

AFFIDAVIT
Election District 1

The undersigned hereby affirms under the penalties of perjury to the Zoning Commissioner of Baltimore County, as follows:

That the information herein given is within the personal knowledge of the Affiant and Affiant is competent to testify thereto in the event that a public hearing is scheduled in the future with regard thereto.

Lillian A. Johnson
AFFIANT (Handwritten Signature)
LILLIAN A. JOHNSON
AFFIANT (Printed Name)

Based upon your personal knowledge, please answer the following questions by indicating yes or no in the space provided:

1. Can you verify by this affidavit, and/or testify in Court if necessary, that the home located at: 431 Academy Rd, Catonsville Md. has been occupied as a two (two, three, etc.) apartment dwelling since July (month), 1954 (year) 429 (address).
2. Can you also verify and testify, if necessary, that said apartments have been occupied by renters every year since July (month), 1954 (year) 429 (address).
3. Will you realize any gain from the sale of this Property? No (answer)

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 12th day of April, 1988, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared Lillian A. Johnson, the Affiant herein, personally known or satisfactorily identified to me as such Affiant, and made oath in due form of law that the matters and facts hereinabove set forth are true and correct to the best of his/her knowledge and belief.

AS WITNESS my hand and Notarial Seal.

Constance S. O'Neill
NOTARY PUBLIC

My Commission Expires July 1, 1990

PLEASE PRINT CLEARLY

PROTESTANT(S) SIGN-IN SHEET

NAME
Robert Tappan

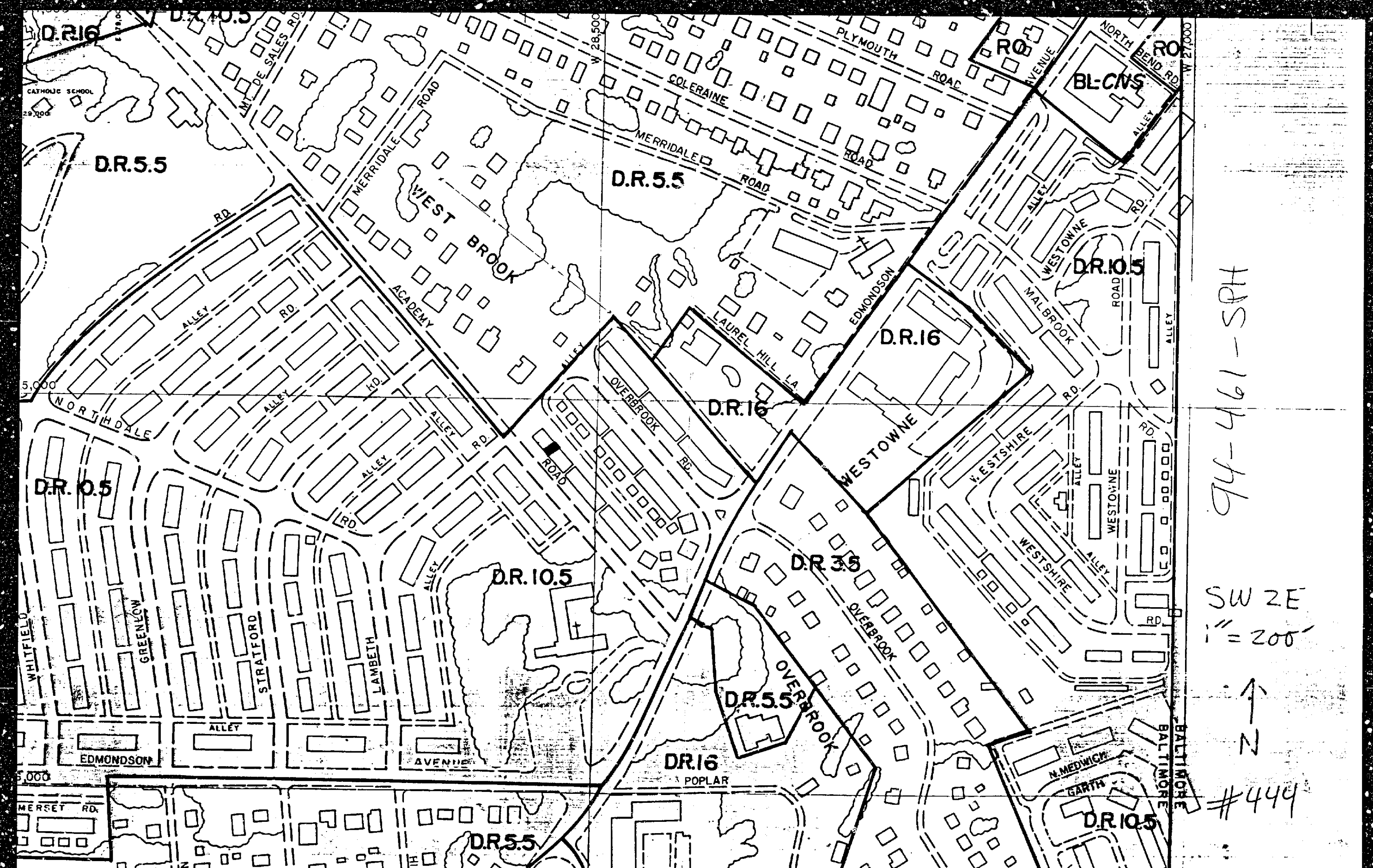
ADDRESS
339 Greenleaf Rd Baltimore MD 21228

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME
PAUL SCHAFER

ADDRESS
125 STARHILL LANE CATONSVILLE MD 21228



receipt
94-461-SPH

Account: R016150

Date: 5/14/94

Number: 444

Item: 444

Location: 431 Academy Road

010-100-1000 - \$50.00

080-100-1000 - \$135.00

\$185.00

Please Make Checks Payable To: Baltimore County

Cashier Validation

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

444

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County Zoning Regulations require that notice be given to the general public/neighborhood property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for posting and advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements.

PAYMENT WILL BE MADE AS FOLLOWS:

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- 2) Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.

NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.

Arnold Jablon, Director

For newspaper advertising:
Item No.: 444
Petitioner: Schaefer, Paul
Location: 431 Academy Road
PLEASE FORWARD ADVERTISING BILL TO:
NAME: PAUL SCHAEFER
ADDRESS: 125 STARHILL LANE
BALTIMORE, MD. 21228
PHONE NUMBER: 410-750-0737

MUST BE SUPPLIED

TO: PUTNEY PUBLISHING COMPANY
June 2, 1994 Issue - Jeffersonian

Please forward billing to:
Paul E. Schaefer, Jr.
125 Starhill Lane
Baltimore, Maryland 21228
750-0737

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 94-461-SPH (Item 444)
431 Academy Road
NE/S Academy Road, 580 feet NW of c/l Edmondson Avenue
1st Election District - 1st Councilmanic
Legal Owner(s): Paul E. Schaefer, Jr. and Vivian W. Schaefer
HEARING: MONDAY, JUNE 27, 1994 at 9:00 a.m., Rm. 118, Old Courthouse

Special Hearing to approve the use of a two-apartment dwelling as a non-conforming use prior to March 1995.

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3351.

Arnold Jablon, Director

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

May 25, 1994

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

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Special Hearing to approve the use of a two-apartment dwelling as a non-conforming use prior to March 1995.

Arnold Jablon, Director

cc: Paul E. Schaefer and Vivian W. Schaefer
Paul DiIorio

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
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(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3351.

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

June 17, 1994

Mr. Paul E. Schaefer, Jr.
125 Starhill Lane
Baltimore, MD 21228

RE: Case No. 94-461-SPH, Item No. 444
Petition for Special Hearing
Petitioner: Paul E. Schaefer

Dear Mr. Schaefer:

The above-referenced petition and accompanying plans were accepted for filing on May 16, 1994 and a hearing was scheduled accordingly. Respectively, the Zoning Advisory Committee (ZAC) has reviewed those plans. Enclosed are copies of the comments received to date from the reviewing agency/agencies offering or requesting information on the petition. These comments are not intended to indicate the appropriateness of the zoning action requested, but rather to ensure that all parties, i.e., zoning commissioner, attorney, and/or petitioner, are aware of any issues that may have a bearing on this case. Should we receive any additional informative comments, they will be forwarded to you immediately. (Comments that are not informative are placed in the case file; you will not receive a copy.)

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1. The director of the Office of Zoning Administration and Development Management has instituted a system whereby those zoning attorneys who regularly file petitions that comply with all aspects of the zoning regulations and petition(s) filing requirements can file their petition(s) with this office without the necessity of a preliminary review by zoning personnel. However, previous staff reviews and violations must be identified at that time.

Baltimore County Government
Fire Department

700 East Joppa Road Suite 901
Towson, MD 21286-5500

(410) 887-4500

DATE: 05/25/94

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owners: SEE BELOW
LOCATION: SEE BELOW

Item No.: SEE BELOW Zoning Agenda:

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1991 edition prior to occupancy.

IN REFERENCE TO THE FOLLOWING ITEM NUMBERS: 444, 446, 445, AND 456.

REVIEWER: LT. ROBERT P. SAUERWALD
Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File

Printed on Recycled Paper

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and
Development Management

DATE: June 1, 1994

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

SUBJECT: Petitions from Zoning Advisory Committee

The Office of Planning and Zoning has no comments on the following petition(s):
Item Nos. 429, 440, 444, 445, 449, 450, 453 and 454.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3480.

Prepared by: Jeffrey W. Long
Division Chief: Pat Keller

PK/JL:lw

ZAC. 440/PZONE/ZAC1

Maryland Department of Transportation
State Highway Administration

O. James Lighthizer
Secretary
Hal Kassoff
Administrator

5-85-94

Ms. Charlotte Minton
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Baltimore County
Item No.: 444 (MJK)

Dear Ms. Minton:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration project.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,
Bob Small
for DAVID N. RAHSEY, ACTING CHIEF
Engineering Access Permits
Division

My telephone number is
Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

IN RE: PETITION FOR SPECIAL HEARING
NE/S Academy Road, 580' NW of
the c/l of Edmondson Avenue
(431 Academy Road)
1st Election District
1st Councilmanic District
Paul E. Schafer, Jr., et ux
Petitioners
* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 94-461-SPH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Special Hearing for that property known as 431 Academy Road, located in the Catonsville area of western Baltimore County. The Petition was filed by the owners of the property, Paul E. Schafer, Jr., and his wife, Vivian V. H. Schafer, in response to a complaint filed with the Zoning Administration and Development Management (ZADM) office as to the operation of a business on the subject property. The Petitioners seek approval of the subject property as a nonconforming use as a two-apartment dwelling prior to March 1955. The subject property and relief sought are more particularly described on the plat submitted into evidence as Petitioner's Exhibit 1.

Appearing on behalf of the Petition were Paul and Vivian Schafer, property owners, and Lillian A. Johnson, a former resident of the area. Appearing as a Protester in the matter was Robert F. Topper, a nearby resident of the area who filed the complaint.

Testimony and evidence presented revealed that the subject property consists of .04 acres, more or less, zoned D.R. 10.5 and is improved with a two-story inside group townhouse dwelling containing two apartments. The Petitioners testified that the dwelling was built as two apartments in the 1940s and that they have owned the property since 1979. Mr. Schafer

described the interior layout of the dwelling and the history of ownership. In addition, Mr. Schafer submitted letters from prior tenants attesting to the property's continuous use as two apartments through the various owners.

On behalf of the Petitioners, Ms. Lillian A. Johnson testified that she lived with her parents at 435 Academy Road from October 1951 until she married in 1958. Ms. Johnson testified that during the time that she resided there with her parents, a Mrs. Wise lived on the subject property and had a tenant. Ms. Johnson testified that the subject property was always used as a two apartment dwelling and that she could never remember it ever being vacant for more than one or two months at a time during a change in tenancy. Ms. Johnson testified that she visited with her parents after she was married at least once or twice a week until her father passed away in 1987 and that during that time, the property was always used as two apartments.

Mr. Robert Topper appeared and testified on behalf of the Academy Heights Civic Association. Mr. Topper testified that while the subject property is not located in Academy Heights, it is located in Westbrooke which is immediately adjacent to Academy Heights. Mr. Topper testified that his Association appeared to voice their general opposition to single family dwellings being used as two apartments. While Mr. Topper filed the initial complaint which brought this matter to a public hearing before me, it should be noted that there was no testimony or evidence presented to indicate that a business was being operated from the premises. Therefore, it appears that the only issue to be resolved was whether the use of the property as two apartments was a legal nonconforming use.

As with all nonconforming use cases, the first task is to determine whether a lawful nonconforming use existed on the subject property

prior to the year in which a change in the zoning regulations caused the use of the property to become illegal. The controlling year in this case is 1955.

The second principle to be applied, as specified in Section 104.1, is whether or not there has been a change in the use of the subject property. A determination must be made as to whether or not the change is a different use, and therefore, breaks the continued nature of the nonconforming use. If the change in use is found to be different than the original use, the current use of the property shall not be considered nonconforming. See McKemy v. Baltimore County, Md., 39 Md. App.257, 385 A2d. 96 (1978).

When the claimed nonconforming use has changed, or expanded, then the Zoning Commissioner must determine whether or not the current use represents a permissible intensification of the original use or an actual change from the prior legal use. In order to decide whether or not the current activity is within the scope of the nonconforming use, the Zoning Commissioner should consider the following factors:

"(a) To what extent does the current use of these lots reflect the nature and purpose of the original nonconforming use;

(b) Is the current use merely a different manner of utilizing the original nonconforming use or does it constitute a use different in character, nature, and kind;

(c) Does the current use have a substantially different effect upon the neighborhood;

(d) Is the current use a "drastic enlargement or extension" of the original nonconforming use."

McKemy v. Baltimore County, Md., Supra.

After due consideration of the testimony and evidence presented, it is clear that the subject property has been used continuously and with-

out interruption as a two-apartment dwelling since prior to 1955, and as such, enjoys a legal nonconforming use.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested in the Petition for Special Hearing should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 25th day of July, 1994 that the Petition for Special Hearing seeking approval of the subject property as a nonconforming use as a two-apartment dwelling prior to March 1955, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED.

Lawrence E. Schmidt
LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

ORDER RECEIVED FOR FILING
Date 7/25/94
By [Signature]

ORDER RECEIVED FOR FILING
Date 7/25/94
By [Signature]

ORDER RECEIVED FOR FILING
Date 7/25/94
By [Signature]

ORDER RECEIVED FOR FILING
Date 7/25/94
By [Signature]

Baltimore County Government
Zoning Commission
Office of Planning and Zoning
Suite 113 Courthouse
100 Washington Avenue
Towson, MD 21204
(410) 887-4386
July 25, 1994

Mr. & Mrs. Paul E. Schafer, Jr.
125 Starhill Lane
Baltimore, Maryland 21228
RE: PETITION FOR SPECIAL HEARING
NE/S Academy Road, 580' NW of the c/l of Edmondson Avenue
(431 Academy Road)
1st Election District - 1st Councilmanic District
Paul E. Schafer, Jr., et ux - Petitioners
Case No. 94-461-SPH

Dear Mr. & Mrs. Schafer:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

Lawrence E. Schmidt
LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: Mr. Robert Topper
339 Greenlaw Road, Baltimore, Md. 21228

People's Counsel

File ✓



Petition for Special Hearing
to the Zoning Commissioner of Baltimore County
for the property located at 431 Academy Rd.
which is presently zoned DR-10.5

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

the use of a two apartment dwelling as a new conforming use prior to March 1955.

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Special Hearing advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contact Purchaser/Lessor

(Type or Print Name)

Signature

Address

City State Zipcode

Attorney for Petitioner

(Type or Print Name)

Signature

Address

City State Zipcode

(We do solemnly declare and affirm, under the penalties of perjury, that we are the legal owner(s) of the property which is the subject of this Petition.)

Legal Owner(s)

(Type or Print Name)

Signature

(Type or Print Name)

Signature

Address

City State Zipcode

Name, Address and phone number of representative to be contacted

Name

Address

City State Zipcode

ESTIMATED LENGTH OF HEARING (in minutes)

ALL OTHER

REVIEWED BY DATE 5/16/94

ORDER RECEIVED FOR FILING
Date 7/25/94
By [Signature]

Beginning on the northeast side of Academy Rd, 36' wide paving, at the distance of 580 feet northwest the centerline of Edmondson Avenue. Being Lot 67 of Westbrook as recorded in Plat Book 12, Folios 36 and 37. Also known as 431 Academy Road containing .04 acres in the 1st Election District.

444

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 135 Date of Posting 6/3/94
Posted for: Special Hearing
Petitioner: Paul E. Schafer, Jr. et ux
Location of property: 431 Academy Rd., NEA
Location of Sign: Along Roadway on property being zoned
Remarks:
Posted by: LES:bjs Date of return: 6/14/94
Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD., June 3, 1994
THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on June 2, 1994.

THE JEFFERSONIAN,
A. Henrickson
LEGAL AD. - TOWSON

November 8, 1979

To whom it may concern:

I, George Thomas Goodman and my wife, Mary, have owned the house located at 431 Academy Road, Catonsville, Md. from July 22, 1970 to Nov. 9, 1979. During our ownership we have had three tenants and have used the property as a two family dwelling under the laws of Baltimore County.

Sincerely,

George Thomas Goodman
George Thomas Goodman

October 2, 1979

I rented the second floor apartment at 431 Academy Road, Baltimore, Maryland 21228 from Mary and Tom Goodman up until Feb. 1, 1978, until October 1, 1978.

Anne M. Pentner

LAW OFFICES
O'DOHERTY, GALLAGHER & NEAD

1011 FIDELITY BUILDING
BALTIMORE, MARYLAND 21201
TELEPHONE 637-1188
FAX 637-1188

November 8, 1979

Mr. and Mrs. G. Thomas Goodman
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Baltimore, Maryland 21229

Dear Tom & Mary:

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If you need additional information, please let me know.

Very truly yours,

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HJF:alc

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Sincerely yours,

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Election District 1

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That the information herein given is within the personal knowledge of the Affiant and Affiant is competent to testify thereto in the event that a public hearing is scheduled in the future with regard thereto.

Lillian A. Johnson
AFFIANT (Handwritten Signature)
LILLIAN A. JOHNSON
AFFIANT (Printed Name)

Based upon your personal knowledge, please answer the following questions by indicating yes or no in the space provided:

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STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 12th day of April, 1988, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared Lillian A. Johnson, the Affiant herein, personally known or satisfactorily identified to me as such Affiant, and made oath in due form of law that the matters and facts hereinabove set forth are true and correct to the best of his/her knowledge and belief.

AS WITNESS my hand and Notarial Seal.

Constance S. O'Neill
NOTARY PUBLIC

My Commission Expires July 1, 1990

PLEASE PRINT CLEARLY

PROTESTANT(S) SIGN-IN SHEET

NAME
Robert Tapp

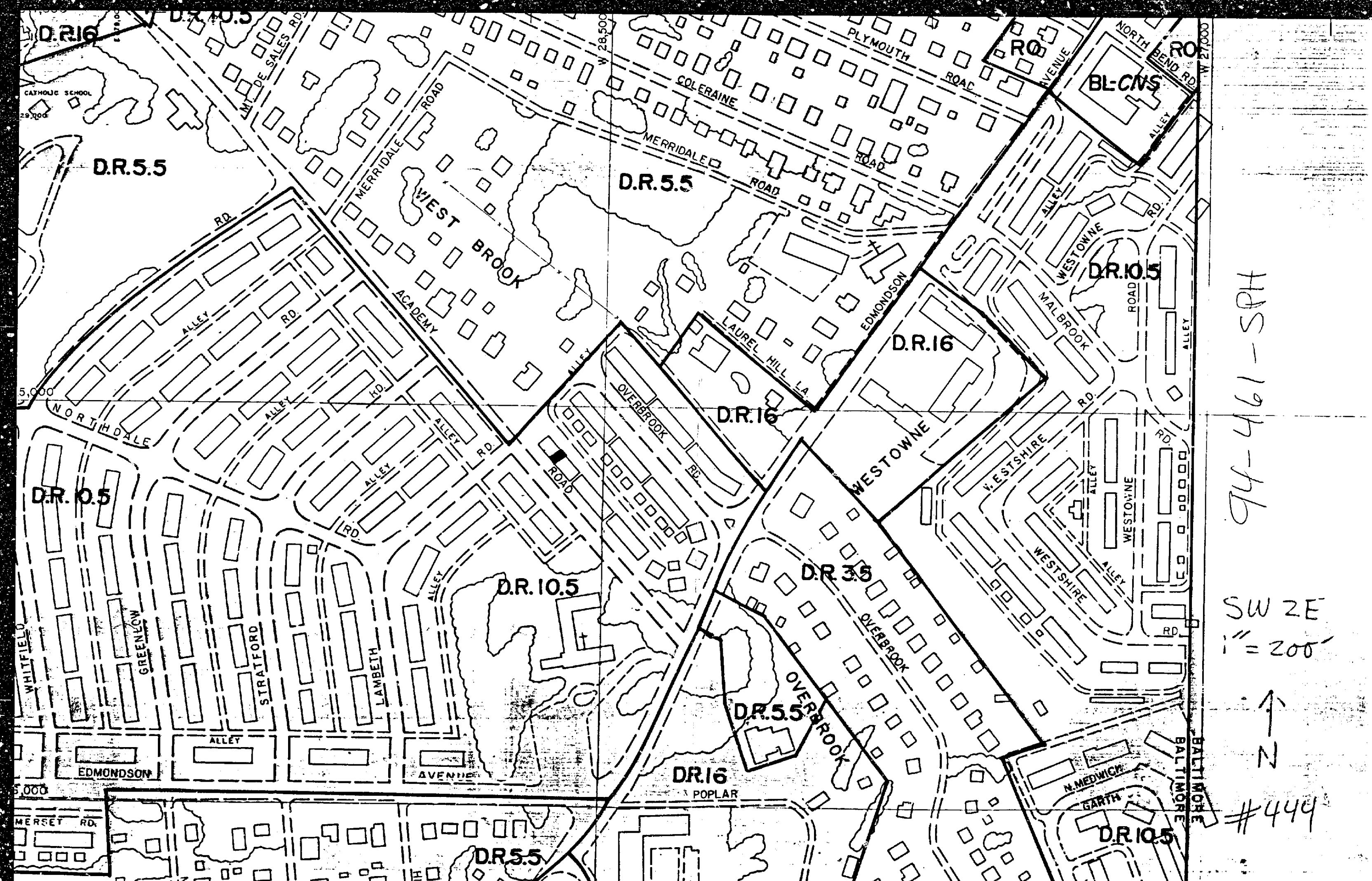
ADDRESS
339 Greenleaf Rd Baltimore MD 21228

PLEASE PRINT CLEARLY

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NAME
PAUL SCHAFER

ADDRESS
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receipt
94-461-SPH

Account: R016150

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Cashier Validation

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Arnold Jablon, Director

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Item No.: 444
Petitioner: Schaefer, Paul
Location: 431 Academy Road

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NAME: PAUL SCHAEFER
ADDRESS: 125 STARHILL LANE
BALTIMORE, MD. 21228
PHONE NUMBER: 410-750-0737

MUST BE SUPPLIED

TO: PUTNEY PUBLISHING COMPANY
June 2, 1994 Issue - Jeffersonian

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Paul E. Schaefer, Jr.
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LAWRENCE E. SCHWIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

May 25, 1994

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Special Hearing to approve the use of a two-apartment dwelling as a non-conforming use prior to March 1995.

Arnold Jablon, Director

cc: Paul E. Schaefer and Vivian W. Schaefer
Paul DiPietro

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3351.

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

June 17, 1994

Mr. Paul E. Schaefer, Jr.
125 Starhill Lane
Baltimore, MD 21228

RE: Case No. 94-461-SPH, Item No. 444
Petition for Special Hearing
Petitioner: Paul E. Schaefer

Dear Mr. Schaefer:

The above-referenced petition and accompanying plans were accepted for filing on May 16, 1994 and a hearing was scheduled accordingly. Respectively, the Zoning Advisory Committee (ZAC) has reviewed those plans. Enclosed are copies of the comments received to date from the reviewing agency/agencies offering or requesting information on the petition. These comments are not intended to indicate the appropriateness of the zoning action requested, but rather to ensure that all parties, i.e., zoning commissioner, attorney, and/or petitioner, are aware of any issues that may have a bearing on this case. Should we receive any additional informative comments, they will be forwarded to you immediately. (Comments that are not informative are placed in the case file; you will not receive a copy.)

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1. The director of the Office of Zoning Administration and Development Management has instituted a system whereby those zoning attorneys who regularly file petitions that comply with all aspects of the zoning regulations and petition(s) filing requirements can file their petition(s) with this office without the necessity of a preliminary review by zoning personnel. However, previous staff reviews and violations must be identified at that time.

Baltimore County Government
Fire Department

700 East Joppa Road Suite 901
Towson, MD 21286-5500

(410) 887-4500

DATE: 05/25/94

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owners: SEE BELOW
LOCATION: SEE BELOW

Item No.: SEE BELOW Zoning Agenda:

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1991 edition prior to occupancy.

IN REFERENCE TO THE FOLLOWING ITEM NUMBERS: 444, 446, 445, AND 456.

REVIEWER: LT. ROBERT P. SAUERWALD
Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File

Printed on Recycled Paper

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and
Development Management

DATE: June 1, 1994

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

SUBJECT: Petitions from Zoning Advisory Committee

The Office of Planning and Zoning has no comments on the following petition(s):
Item Nos. 429, 440, 444, 445, 449, 450, 453 and 454.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3480.

Prepared by: Jeffrey W. Long
Division Chief: Pat Keller

PK/JL:lw

ZAC. 440/PZONE/ZAC1

Maryland Department of Transportation
State Highway Administration

O. James Lighthizer
Secretary
Hal Kassoff
Administrator

5-85-94

Ms. Charlotte Minton
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Baltimore County
Item No.: 444 (MJK)

Dear Ms. Minton:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration project.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,
Bob Small
for DAVID N. RAHSEY, ACTING CHIEF
Engineering Access Permits
Division

My telephone number is
Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free
Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

IN RE: PETITION FOR SPECIAL HEARING
NE/S Academy Road, 580' NW of
the c/l of Edmondson Avenue
(431 Academy Road)
1st Election District
1st Councilmanic District
Paul E. Schafer, Jr., et ux
Petitioners
* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 94-461-SPH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Special Hearing for that property known as 431 Academy Road, located in the Catonsville area of western Baltimore County. The Petition was filed by the owners of the property, Paul E. Schafer, Jr., and his wife, Vivian V. H. Schafer, in response to a complaint filed with the Zoning Administration and Development Management (ZADM) office as to the operation of a business on the subject property. The Petitioners seek approval of the subject property as a nonconforming use as a two-apartment dwelling prior to March 1955. The subject property and relief sought are more particularly described on the plat submitted into evidence as Petitioner's Exhibit 1.

Appearing on behalf of the Petition were Paul and Vivian Schafer, property owners, and Lillian A. Johnson, a former resident of the area. Appearing as a Protester in the matter was Robert F. Topper, a nearby resident of the area who filed the complaint.

Testimony and evidence presented revealed that the subject property consists of .04 acres, more or less, zoned D.R. 10.5 and is improved with a two-story inside group townhouse dwelling containing two apartments. The Petitioners testified that the dwelling was built as two apartments in the 1940s and that they have owned the property since 1979. Mr. Schafer

described the interior layout of the dwelling and the history of ownership. In addition, Mr. Schafer submitted letters from prior tenants attesting to the property's continuous use as two apartments through the various owners.

On behalf of the Petitioners, Ms. Lillian A. Johnson testified that she lived with her parents at 435 Academy Road from October 1951 until she married in 1958. Ms. Johnson testified that during the time that she resided there with her parents, a Mrs. Wise lived on the subject property and had a tenant. Ms. Johnson testified that the subject property was always used as a two apartment dwelling and that she could never remember it ever being vacant for more than one or two months at a time during a change in tenancy. Ms. Johnson testified that she visited with her parents after she was married at least once or twice a week until her father passed away in 1987 and that during that time, the property was always used as two apartments.

Mr. Robert Topper appeared and testified on behalf of the Academy Heights Civic Association. Mr. Topper testified that while the subject property is not located in Academy Heights, it is located in Westbrooke which is immediately adjacent to Academy Heights. Mr. Topper testified that his Association appeared to voice their general opposition to single family dwellings being used as two apartments. While Mr. Topper filed the initial complaint which brought this matter to a public hearing before me, it should be noted that there was no testimony or evidence presented to indicate that a business was being operated from the premises. Therefore, it appears that the only issue to be resolved was whether the use of the property as two apartments was a legal nonconforming use.

As with all nonconforming use cases, the first task is to determine whether a lawful nonconforming use existed on the subject property

prior to the year in which a change in the zoning regulations caused the use of the property to become illegal. The controlling year in this case is 1955.

The second principle to be applied, as specified in Section 104.1, is whether or not there has been a change in the use of the subject property. A determination must be made as to whether or not the change is a different use, and therefore, breaks the continued nature of the nonconforming use. If the change in use is found to be different than the original use, the current use of the property shall not be considered nonconforming. See *McKemy v. Baltimore County, Md., 39 Md. App.257, 385 A2d. 96 (1978)*.

When the claimed nonconforming use has changed, or expanded, then the Zoning Commissioner must determine whether or not the current use represents a permissible intensification of the original use or an actual change from the prior legal use. In order to decide whether or not the current activity is within the scope of the nonconforming use, the Zoning Commissioner should consider the following factors:

"(a) To what extent does the current use of these lots reflect the nature and purpose of the original nonconforming use;

(b) Is the current use merely a different manner of utilizing the original nonconforming use or does it constitute a use different in character, nature, and kind;

(c) Does the current use have a substantially different effect upon the neighborhood;

(d) Is the current use a "drastic enlargement or extension" of the original nonconforming use."

McKemy v. Baltimore County, Md., Supra.

After due consideration of the testimony and evidence presented, it is clear that the subject property has been used continuously and with-

out interruption as a two-apartment dwelling since prior to 1955, and as such, enjoys a legal nonconforming use.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested in the Petition for Special Hearing should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 25th day of July, 1994 that the Petition for Special Hearing seeking approval of the subject property as a nonconforming use as a two-apartment dwelling prior to March 1955, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED.

Lawrence E. Schmidt
LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

ORDER RECEIVED FOR FILING
Date 7/23/94
By [Signature]

ORDER RECEIVED FOR FILING
Date 7/23/94
By [Signature]

ORDER RECEIVED FOR FILING
Date 7/23/94
By [Signature]

ORDER RECEIVED FOR FILING
Date 7/23/94
By [Signature]

Baltimore County Government
Zoning Commission
Office of Planning and Zoning
Suite 113 Courthouse
100 Washington Avenue
Towson, MD 21204
(410) 887-4386
July 27, 1994

Mr. & Mrs. Paul E. Schafer, Jr.
125 Starhill Lane
Baltimore, Maryland 21228
RE: PETITION FOR SPECIAL HEARING
NE/S Academy Road, 580' NW of the c/l of Edmondson Avenue
(431 Academy Road)
1st Election District - 1st Councilmanic District
Paul E. Schafer, Jr., et ux - Petitioners
Case No. 94-461-SPH

Dear Mr. & Mrs. Schafer:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

Lawrence E. Schmidt
LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: Mr. Robert Topper
339 Greenlaw Road, Baltimore, Md. 21228

People's Counsel

File ☒



Petition for Special Hearing
to the Zoning Commissioner of Baltimore County
for the property located at 431 Academy Rd.
which is presently zoned DR-10.5

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

the use of a two apartment dwelling as a new conforming use prior to March 1955.

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Special Hearing advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contact Purchaser/Lessor
(Type or Print Name)
Signature
Address
City State Zipcode

Attorney for Petitioner
(Type or Print Name)
Signature
Address
City State Zipcode

(We do solemnly declare and affirm, under the penalties of perjury, that we are the legal owner(s) of the property which is the subject of this Petition.)
Legal Owner(s)
Paul E. Schafer Jr.
(Type or Print Name)
Signature
Vivian V.H. Schafer
(Type or Print Name)
Signature
125 Starhill Lane
Baltimore, Md. 21228
Name, Address and phone number of representative to be contacted
Above
Name
Address
City State Zipcode
ESTIMATED LENGTH OF HEARING (in minutes)
1hr
By the following date: 5/16/94
REVIEWED BY [Signature] DATE 5/16/94

Beginning on the northeast side of Academy Rd, 36' wide paving, at the distance of 580 feet northwest the centerline of Edmondson Avenue. Being Lot 67 of Westbrook as recorded in Plat Book 12, Folios 36 and 37. Also known as 431 Academy Road containing .04 acres in the 1st Election District.

444

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 135 Date of Posting 6/3/94
Posted for: Special Hearing
Petitioner: Paul E. Schafer Jr.
Location of property: 431 Academy Rd., NEA
Location of Sign: Along Roadway on property being zoned
Remarks:
Posted by: LES:bjs Date of return: 6/14/94
Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD., June 3, 1994
THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on June 2, 1994.

THE JEFFERSONIAN,
A. Henrickson
LEGAL AD. - TOWSON